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No. 03-1414

Supreme Court, U.S.
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In The

Supreme Court of the United States

RONALD HAMILTON,

Petitioner,

v.

J. D. COLLETT, and JEFFREY RAMIREZ,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITIONER'S REPLY BRIEF TO RESPONDENT RAMIREZ'S BRIEF IN OPPOSITION

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REASONS FOR GRANTING THE WRIT

I. THE PROBABLE CAUSE DETERMINATION MADE BY THE COURT OF APPEALS IS FLAWED.

Overlooked by Respondent Ramirez and by the Court of Appeals in its opinion in this cause is that an essential element of both the federal gambling and money laundering charges is that Hamilton and/or his associates must have "engaged in illegal bookmaking in Texas." *United States v. Truesdale*, 152 F.2d 443 at 448 (5th Cir. 1998). Absent illegal bets related to bookmaking occurring in Texas, no crime was committed. Excising from the probable cause determination, the false claim that Hamilton and/or his associates accepted bets in Texas would not permit one to conclude that Ramirez and Collett had probable cause to either arrest (seize) or prosecute Hamilton. This is because the evidence shows that both Ramirez and Collett knew no crime had been committed because no bets had been accepted in Texas by Hamilton or his associates. Instead, the bets were lawfully accepted in Jamaica and/or the Dominican Republic. The Magistrate Judge's opinion adopted by the District Court fully supports this assertion. (See Appendix to Petition for Certiorari pages 16a-20a.) This is a case where excising the false information from the probable cause determination is not appropriate unless one also substitutes the true facts for the false information. If one were to add to the probable cause determination that all "bets" were lawfully accepted offshore by persons in a lawful facility licensed for that purpose, there would not have been probable cause that would have lawfully authorized any type of seizure.

To achieve Hamilton's arrest and prosecution, Respondents Ramirez and Collett must have recognized the

need to misrepresent that bets were being accepted in Texas. The evidence shows that this was done by both of them in their presentations to the Magistrate who issued the warrant to search Hamilton's home as well as to the Grand Jury(s) that returned the indictment(s) against Hamilton. Because the summary judgment record supports Hamilton's claim of perjury on the part of the Respondents, in this context, perjury to obtain an arrest and/or prosecution should not be a basis for granting "immunity." The effect of the Court of Appeals' decision in this cause is to sanction the withholding and/or misrepresentation of controlling facts that are inconsistent with a finding of probable cause. To permit or to sanction the withholding of information that is inconsistent with a finding of probable cause cannot be logically reconciled with the requirements of the Fourth Amendment.

II. RELIANCE ON THE WARRANT AUTHORIZING THE SEARCH OF HAMILTON'S HOME IS MISPLACED.

Reliance on the Magistrate's decision to approve the search of Hamilton's home and his arrest is not appropriate because the Magistrate was misled and falsely told that illegal bets were being accepted in Texas. Additionally, Hamilton in the criminal litigation that led to the decision in *United States v. Truesdale, et al.* filed a Motion to Suppress in the District Court. This motion was denied by the District Court and Hamilton made the denial of this motion one of the errors that he presented to the Court of Appeals in *United States v. Truesdale, et al.* The Court of Appeals in the *United States v. Truesdale, et al.* litigation did not decide the Fourth Amendment issues related to the

search of Hamilton's home. Instead, the court said the evidence was insufficient to support a conviction.

CONCLUSION

For all of the reasons heretofore stated, Petitioner requests this court to grant his Petition for Certiorari.

Respectfully submitted,

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